

w. LEK
ORIGINAL

MARR HIPP JONES & WANG
A LIMITED LIABILITY LAW PARTNERSHIP

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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DEC 23 2005
at 10 o'clock and 34 min. A.M.
SUE BEITIA, CLERK

Attorney for Former Defendant
LOCKHEED-MARTIN CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,	) CV NO. CV04-00671 HG-LEK
)
Plaintiff,	) FORMER DEFENDANT
vs.	) LOCKHEED-MARTIN
SIDNEY HAYAKAWA, Director of	) CORPORATION'S MEMORANDUM
Transportation Security	) IN OPPOSITION TO PLAINTIFF'S
Administration – Honolulu, KEN	) MOTION TO COMPEL DISCOVERY
KAMAHELE, Deputy Director,	) FILED DECEMBER 12, 2005;
Transportation Security	) DECLARATION OF STEVEN M.
Administration – Honolulu;	) NAKASHIMA; EXHIBIT A;
TRANSPORTATION SECURITY	) CERTIFICATE OF SERVICE
ADMINISTRATION; THOMAS J.)
RIDGE, Secretary, Department of	) DATE: January 13, 2006
Homeland Security, DEPARTMENT	) TIME: 9:00 a.m.
OF HOMELAND SECURITY;	) JUDGE: The Honorable
LOCKHEED-MARTIN; JOHN DOES)	Leslie E. Kobayashi
2-5,)
)
Defendants.	) TRIAL: August 1, 2006
)

**FORMER DEFENDANT LOCKHEED-MARTIN
CORPORATION'S MEMORANDUM IN OPPOSITION
TO PLAINTIFF'S MOTION TO COMPEL
DISCOVERY FILED DECEMBER 12, 2005**

Former Defendant¹ Lockheed-Martin Corporation (“Lockheed”) hereby submits its opposition to Plaintiff’s Motion to Compel Discovery filed December 12, 2005.

The documents sought by Plaintiff in this Motion to Compel principally involve records of the recertification testing that was administered to airport security personnel in Honolulu, including Plaintiff. The recertification testing is performed by contractors to the federal agency in charge of airport security, the Transportation Security Administration (“TSA”). Although Lockheed is one of the contractors to TSA who has been involved in administering the recertification testing, Lockheed did not do the recertification testing involved in this case. The testing in this case was actually performed by a subcontractor and not by Lockheed. *See* Declaration of Steven M. Nakashima and Exhibit A attached thereto. The subcontractor was one of two companies: Alltech International, Inc. or Homeland Security Corporation. *Id.*

Because Lockheed was not the company that administered the recertification test to Plaintiff, counsel for Plaintiff has been informed that

¹ Lockheed is no longer an actual defendant in this matter a Notice of Dismissal with Prejudice of All Claims Against Defendant Lockheed-Martin was filed by Plaintiff on Sept. 30, 2005.

Lockheed does not have in its possession or control any of the recertification testing documents that are related to Plaintiff or that are relevant to this case. *Id.*

Accordingly, Lockheed respectfully requests that based on this new information that has been presented to Plaintiff, that the present Motion to Compel be dismissed as the documents sought by Plaintiff are not in the possession or control of Lockheed and Plaintiff will now be attempting to obtain the documents from one of the subcontractors who actually administered the recertification test to Plaintiff.

DATED: Honolulu, Hawaii, December 23, 2005.



STEVEN M. NAKASHIMA

Attorney for Defendant
Lockheed-Martin Corporation